CV 12 2998

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Shawn E. Byrd

(In the space above enter the full name(s) of the plaintiff(s).

-against-

Irwin S. Kirschenbaum
Elliot Phillips
Michael Haig

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

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FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y

★ JUN 14 2012 ★

LONG ISLAND OFFICE

COMPLAINT

Jury Trial: (Yes) No

BIANCO, J.

BROWN, M.J.

I. Parties in this complaint:

A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff:
Name Shawn E. Byrd
Street Address 12 Birch Rd.
County, City Suffolk County, Amityville
State & Zip Code New York 11701
Telephone Number (631) 918-8359

B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1
Name Irwin S. Kirschenbaum
Street Address 40 Daniel St. Suite 7 P.O. Box 9000
County, City Nassau County, Farmingdale
State & Zip Code N.Y. 11735
Telephone Number (516) 742-2735 fax (516) 746-1144 office

Defendant No. 2
Name Elliot Phillips
Street Address 40 Daniel St. Suite 7 P.O. Box 9000
County, City Nassau County, Farmingdale
State & Zip Code N.Y. 11735
Telephone Number (516) 746-1144 office (516) 742-2735 fax

Defendant No. 3
Name Michael Haig
Street Address 40 Daniel St. Suite 7 P.O. Box 9000
County, City Nassau County, Farmingdale
State & Zip Code N.Y. 11735
Telephone Number (516) 746-1144

Defendant No. 4
Name _____
Street Address _____
County, City _____
State & Zip Code _____
Telephone Number _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than $75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal Questions ☐ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? The Freedom of Information Act and the Fair Debt Collections Practices Act.

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship _____
Defendant(s) state(s) of citizenship _____

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? _____

B. What date and approximate time did the events giving rise to your claim(s) occur? _____

C. Facts: I seek civil action against each defendant because of failure to respond to my tacit notice. A letter was sent on March 30, 2012 to the corporation requesting copies of all 3rd party contracts and security agreements on file at their offices based upon the original contract between Kirschenbaum & Phillips P.C. and SHAWN E. BYRD. After 30 days with no response, I sent Michael Haig a 2nd notice on June 1, 2012 giving him 72 hours to respond. All I have received was the domestic return receipt. My request under the Freedom of Information Act and the Fair Debt Collections Practices Act should have been granted.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. _____

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. I seek monetary damages from each defendant, in the amount of $60,000 that will be accepted for the value.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 13th day of June, 2012.

Signature of Plaintiff Shawn E. Byrd

Mailing Address 12 Birch Rd.
Amityville, N.Y. 11701
[Organic land]

Telephone Number (631) 918-8359

Fax Number *(if you have one)* _____

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

7010 2780 0003 2013 0943

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com®
FARMINGDALE NY 11735

Postage	$ $0.65	0736
Certified Fee	$2.95	05
Return Receipt Fee (Endorsement Required)	$2.35	Postmark Here
Restricted Delivery Fee (Endorsement Required)	$0.00	
Total Postage & Fees	$ $5.95	06/04/2012

Sent To: Kirschenbaum & Phillips, P.C.
Street, Apt. No.; or PO Box No. 40 Daniel St. P.O. Box 9000
City, State, ZIP+4 Farmingdale, N.Y. 11735

PS Form 3800, August 2006 See Reverse for Instructions

7010 2780 0003 2011 6671

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com®
FARMINGDALE NY 11735

Postage	$ $0.45	0736
Certified Fee	$2.95	02
Return Receipt Fee (Endorsement Required)	$0.00	Postmark Here
Restricted Delivery Fee (Endorsement Required)	$0.00	
Total Postage & Fees	$ $3.40	04/02/2012

Sent To: Kirschenbaum & Phillips P.C.
Street, Apt. No.; or PO Box No. 40 Daniel St. Suite 7
City, State, ZIP+4 Farmingdale, N.Y. 11735-

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kirschenbaum & Phillips, P.C.
40 Daniel St. Suite 7
P.O. Box 9000
Farmingdale N.Y. 11735
Attn: Michael Haig

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Rachael Fink ☐ Agent ☐ Addressee

B. Received by (Printed Name) Rachael Fink
C. Date of Delivery 6-5-12

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7010 2780 0003 2013 0943

SHAWN E. BYRD
March 30, 2012

KIRSCHENBAUM & PHILLIPS, P.C.
40 Daniel St. Suite 7
P.O. Box 9000
Farmingdale, N.Y. 11735
Attention: Irwin S. Kirschenbaum,
Elliot Phillips, & C.F.O.

To Whom It May Concern:

Recently, a disturbing matter has been brought to my attention. I have been made aware of Uniform Commercial Code, U.S. Codes, and the Law of Contracts. The troubling part is that because of the Emergency Banking Relief Act of 1933 and House Joint Resolution 192, gold was removed from the standard; which essentially means that I was never paid for the time that I worked at your place of business. I was only given promises to be paid at a later date, in the form of a check.

I know we can come to a mutual agreement that would be accepted for value. I want this matter resolved within the next 30 business days.

Thank you for your expected cooperation.

Yours Truly,
Shawn E. Byrd
Shawn E. Byrd
all rights reserved without prejudice
12 Birch Rd.
Amityville, N.Y. 11701[organic land]

SHAWN E. BYRD
12 Birch Rd.
Amityville, N.Y. 11071(organic land)
June 1, 2012

NOTICE TO PRINCIPAL IS NOTICE TO AGENT,
NOTICE TO AGENT IS NOTICE TO PRINCIPAL

KIRSCHENBAUM & PHILLIPS, P.C.
40 Daniel St. Suite 7
P.O. Box 9000
Farmingdale, N.Y. 11735
Attention: Michael Haig

Due to lack of response of my 30-day notice in regards to my request for proper compensation that would be accepted for value, it is with the presumption of law that I was not properly compensated for the time that I was employed at your corporation. The security agreements between your corporation, the State of N.Y., the bank, the I.R.S., & SHAWN E. BYRD were made without FULL DISCLOSURE given to me. These matters have proceeded under the presumption of proper compensation without FULL DISCLOSURE in contracts determined to assume that I was in fact, properly compensated.

Therefore, at this time, I am requesting proof of compensation; which may be by sworn affidavit or in the form of a writ showing proof of compensation.

Please be advised of this notice in the administrative process, and that it is a notice sent pursuant to House Joint Resolution 192, Public Law 48, 48 Stat.112, 12 USC 411, 15 USC 1813, Public Law 95-109, Section 805(c). I am requesting any and all contracts, adhesions; unilateral(s), quasi(s), etc. that was made in the corporate name SHAWN E. BYRD due to non-disclosure within 72 hours. Any attempt to circumvent or undermine the time constraints of statute of limitations in regard to the production of information related to this lawful demand, will be deemed as dishonor and or default.

1. Please provide me with all material facts, including but not limited to proof of valuable consideration that your corporation gave me lawful monies.

2. Please produce the original security agreement between KIRSCHENBAUM & PHILLIPS, P.C. and the bank.

3. Please provide me with the payment clause of the employee contract.

4. Please produce the original security agreement between KIRSCHENBAUM & PHILLIPS, P.C. and the Internal Revenue Service.

This is in accordance with TRUTH IN LENDING, House Joint Resolution 192, Public Law 48, 48 Stat. 112, 12 USC 411, 15 USC 1813, Public Law 95-109, Section 805(c), THE FAIR DEBT COLLECTION PRACTICES ACT, USCA Section 1601, 1692, and GENERALLY ACCEPTED ACCOUNTING PRACTICES.

Please rebut the truth herein, point for point, with a valid response within 72 hours.

Regards,

Shawn E. Byrd

Administrator without prejudice {ucc 1-308}

Sworn before me on the 14th day of June 2012

Antoinette Maria Harrington

ANTOINETTE MARIA HARRINGTON
Notary Public - State of New York
NO. 01HA6254219
Qualified in Suffolk County
My Commission Expires 11/7/16